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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,696	10/08/2003	Joseph D. Rippolone	67,067-002	5878
26096	7590	04/12/2006	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			TRAN, KHOI H	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/681,696

Applicant(s)

RIPPOLONE, JOSEPH D.

Examiner

Khoi H. Tran

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-5,8,9 and 19-39 is/are pending in the application.
- 4a) Of the above claim(s) 27-34 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8,9,19-26 and 35-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

  
KHÔI H. TRAN

PRIMARY EXAMINER

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 27-34 and 39 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Groupings, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/03/2005.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Line 2, "the material dispensing opening" lacks antecedent basis. It is not distinct which actuating material dispensing opening Applicant is referring.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-5, 8, 9, and 19-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Higham et al. 5,745,366.

Higham et al. '366 disclose a material storage chest system per claimed invention. The system comprises a lockable storage chest for storing a plurality of articles (Figures 7 and 10). The chest comprises a door 110 or 220 (drawer door shown Figures 7 and 10) defined at least partially along a longitudinal length of said storage chest that selectively dispenses a desired quantity of articles from said plurality of articles. The chest comprises a temporary storage portion adjacent the door that holds said desired quantity of articles, i.e. plural basket compartments 124 or 216 for storing articles. The chest system comprises a controller 210 that selectively actuates the door in response to employee/user identification (Figures 10A-10C). Higham et al. '366 anticipates all structural elements per claimed invention. It is inherent that Higham et al. '366 chest system is usable for dispensing construction articles.

In regards to claim 3, Higham et al. '366 controller receives a numerical value to actuate the door to dispense a quantity of material equivalent to said predetermined quantity.

In regards to claim 5, Higham et al. '366 comprise a communication system that communicates data from the controller to a remote location (paragraph bridging columns 29 and 30).

In regards to claim 8, Higham et al. '366 chest is water resistant.

In regards to claim 20, Higham et al. '366 temporary storage portion holds a desired quantity of articles before the quantity of articles are removed from the temporary storage portion.

In regards to claim 21, Higham et al. '366 chest comprises a top-loading door 134 or 218 (figures 7 and 10).

In regards to claim 22, Higham et al. '366 chest comprises a side-loading door 110 or 212.

In regards to claim 23, Higham et al. '366 chest system comprises plurality of similar second storage chests for storing plurality of different articles.

In regards to claim 24, Higham et al. '366 second storage chest comprises a side-loading door 110 or 212.

In regards to claim 25, Higham et al. '366 chest comprises multiple desired articles.

In regards to claim 26, Higham et al. '366 controller selectively actuates the door to dispense a desired quantity of articles.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higham et al. 5,745,366.

In regards to claim 35, Higham et al. '366 disclose all elements per claimed invention as explained above. However, it is silent as to the specifics of the employee identification information being employee number. Nevertheless, expediting numbers

for employee identification means is commonly well known within the art. Providing employee identification numbers to Higham et al. '366 identification information would have been obvious.

In regards to claim 36, it is obvious that Higham et al. '366 employee identification is associated with the task of the employee (i.e. dispensing task).

In regards to claim 37, Higham et al. '366 stored articles are obviously of different sizes.

In regards to claim 38, Higham et al. '366 chest comprises a first side and a second side. The first side comprises a lockable loading door, i.e. front-loading door or top-loading door (Figures 7 and 10). The second side comprises the actuating door to dispense the desired quantity of articles, i.e. top accessing door or front access door (Figures 7 and 10).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-5, 8, 9, 19-26, and 35-38 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

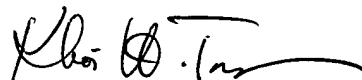
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H. Tran whose telephone number is (571) 272-6919. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoi H Tran  
Primary Examiner  
Art Unit 3651

KHT